

## **Edmonton Composite Assessment Review Board**

**Citation: John C. Manning v The City of Edmonton, 2013 ECARB 01908**

**Assessment Roll Number:** 9827379

**Municipal Address:** 2203 38 Street NW

**Assessment Year:** 2013

**Assessment Type:** Annual New

Between:

**John C. Manning**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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**DECISION OF**  
**Larry Loven, Presiding Officer**  
**Brian Carbol, Board Member**  
**Brian Frost, Board Member**

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### **Procedural Matters**

[1] When questioned by the Presiding Officer, the parties did not object to the composition of the Board. The Board Members indicated no bias in the matter before them.

[2] At the request of the parties evidence and argument, was carried forward from roll number 7899628 (213 ECARB 01902) to this decision, where applicable.

### **Preliminary Matters**

[3] There were no preliminary matters.

### **Background**

[4] The subject property is a 22 suite walk-up apartment building located in the Daly Grove neighbourhood of Market Area 9 in southeast Edmonton. The building was built in 1982. It is comprised of 14 one-bedroom and 8 two-bedroom suites on three above ground floors and one below ground floor (3½ storeys). It has a gross building area of 1,616.4 square metres. The building is on a 1,773.88 square metre lot. Its civic address is 2203 - 38 St. NW.

[5] The 2013 assessment is \$2,427,500.

### **Issues**

[6] Is the Gross Income Multiplier (GIM) used in the assessment too high?

## **Legislation**

### **[7] The *Municipal Government Act*, RSA 2000, c M-26, reads:**

s 1(1)(n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;

s 467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

s 467(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

(a) the valuation and other standards set out in the regulations,

(b) the procedures set out in the regulations, and

(c) the assessments of similar property or businesses in the same municipality.

## **Position of the Complainant**

[8] In support of a request for reduction in the 2013 assessment of the subject property the Complainant submitted Exhibit C-1 (“C-1”) containing evidence of sales comparables, including sale data sheets for each sale provided by The Network. The Complainant also provided the 2013 Assessment Detail Report for the subject, statements of rental income and expenses, maps showing the location of the subject property, and photos. As well, the Complainant entered Exhibit C-2 (“C-2”) in rebuttal to the sales comparables presented by the Respondent.

[9] The Complainant submitted a chart of four sale comparables from Market Area 3 (C-1, p. 2). These comparables ranged in age from 1965 to 1974 compared to the subject property which was built in 1982. Sale dates ranged from May to July 2010, and Gross Income Multipliers (GIM) ranged from 9.02 to 10.64. The capitalization rates ranged from 6.3% to 7.3%. The Effective Gross Income (EPGI) per unit per month ranged from \$810 to \$977, compared to the subject property’s actual income of \$865 per unit per month.

[10] In support of the actual income for the subject property the Complainant provided Statements of Rental Income and Expenses which showed net operating revenue for the subject property for 2011 of \$146,608 and for 2012 of \$164,269 (C-1 pp. 8-11). The Complainant added these figures were very close to the Respondent’s “typical” income and were not an issue.

[11] The Complainant argued that sales comparables #1, 2, and 3 best support a reduction of the GIM to 10.00. When applied to the actual income for the subject property the result is a reduction in value to \$2,283,000.

[12] The Complainant further argued that a capitalization rate of 7.0% is supported by the sales comparables and when applied to the actual income a value of \$2,347,000 results for the subject property.

[13] In rebuttal the Complainant submitted C-2 and argued that the Respondent's estimate of income for all four properties is lower than that reflected at the time of sale. The Complainant further argued that these four properties were assessed lower than the time-adjusted sale prices.

[14] In conclusion, the Complainant requested a reduction in the assessment of the subject property from \$2,427,500 to \$2,300,000.

### **Position of the Respondent**

[15] The Respondent stated that the 2013 assessment of the subject was fair and equitable. To support his position, the Respondent presented a 51-page assessment brief, Exhibit R-1("R-1"), that included law and legislation. The Respondent also submitted an 85 page supplementary brief Exhibit R-2 ("R-2"), or the GIM Law Brief which contained: *Errors Inherent in Mixing City GIMs/Incomes with Third Party GIMs/Incomes*; excerpts from the International Association of Assessing Officers, *Mass Appraisal of Real Property*; excerpts from Alberta Municipal Affairs, *Principles of Assessment I for Assessment Review Board Members and the Municipal Government Board Members*; excerpts from Alberta Municipal Affairs, *2011 Recording and Reporting Information for Assessment Audit and Equalized Assessment Manual*; and, MGB 075/10.

[16] The Respondent stated the GIM of 10.48 has been calculated within the model and has been used for all assessments of Market Area 9 walk-up apartments similar in age to the subject property. In support, a table containing eight such properties was provided confirming this GIM (R-1, p. 34).

[17] The Respondent provided three sales comparables similar to the subject property. The buildings all had nine suites and reflected GIMs of between 10.02 and 11.42. The sales occurred between April 2010 and December 2011 and were time adjusted to the July 1, 2012 valuation date. All were located in same market area as the subject property, Market Area 9. The Respondent concluded that these sales comparables indicated that the 10.48 GIM applied to the subject is not too high.

[18] The Respondent challenged the Complainant's sale information noting that two of the sales were non-arm's length and therefore invalid for comparison purposes. All of these sales, it was argued by the Respondent, were supported by third-party data which has been rejected by many Board Orders and Queen's Bench decisions as being unreliable (R-1, pp. 46-47).

[19] The Respondent challenged the Complainant's income data as there was insufficient data in support of the rents as they related to typical rents. Nor could the Complainant substantiate the validity of the use of actual rents, the Respondent argued, given it was contrary to the use of typical market rents as required for mass appraisal. The Respondent stated this was further supported in *Sunlife Assurance Company Canada v. The City of Edmonton*, MGB BO 038/06 and *Astoria Manor v. The City of Edmonton*, MGB No. DL 026/09 (R-1, pp. 49-50).

[20] In summary, the Respondent stated that the Complainant's request for the assessment to be based on actual rent was unreasonable given the Respondent is mandated to use typical rents in the calculation of assessments. Regarding the Complainant's sale comparables, the Respondent stated:

- a. The Complainant's data relied on unreliable third-party documents.
- b. Two of the four sales were invalid (not arm's length) and one was discounted by the Complainant.
- c. Based then on only one sale, the Complainant had no basis for appeal.

[21] In conclusion, the Respondent requested the 2013 assessment of the subject property be confirmed at \$2,427,500.

### **Decision**

[22] The 2013 assessment of the subject property is confirmed at \$2,427,500.

### **Reasons for the Decision**

[23] The Board finds that the Complainant provided annual income data unsupported by rent roll or lease details. However, the actual EPGI of the subject property given as \$865 per month supports the typical or assessed EPGI of \$877 per month.

[24] Based on evidence provided by the Respondent, the Board accepts that two of the Complainant's sales comparables are non-arm's length, and therefore placed little weight on these sales. The actual EPGI per suite per month of the remaining sales comparables that the Complainant relied upon suggest that the assessed or typical EPGI for the subject property may be lower. However, the Board is unable to draw any further conclusions regarding the Complainant's reliance on actual EPGI versus typical EPGI.

[25] The Board finds that the typical EPGI per suite per month for the Respondent's three sales ranges from \$792 to \$975, compared to \$877 for the subject property, which supports the typical or assessed EPGI of the subject property.

[26] Although the Board heard no argument from the Complainant regarding the sale price per suite, the Board finds the sales price per suite of the Complainant's sale comparables ranging from \$92,545 to \$106,750 indicates that the assessed per suite value of the subject property may be somewhat overstated at \$110,340. Notwithstanding the two of the Complainant's four sales comparables are found to be non-arms length.

[27] Similarly, the Board finds the TASP per suite of the Respondent's three sales comparables ranged around the per suite assessed value of the subject property. These were all about the same age, two had had larger suites, and sold from \$105,220 to \$118,189. This supports the assessed per suite value of \$110,340 of the subject property.

[28] The Board finds the eight equity comparables presented by the Respondent, all low-rise apartment buildings located in Market Area 9 and assessed from \$112,701 to \$118,839 per suite, support the equitable per suite assessment of the subject property.

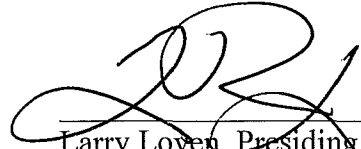
[29] Based on its consideration of the above reasons, the Board concludes the 2013 assessment of the subject property to be fair and equitable.

**Dissenting Opinion**

[30] There was no dissenting opinion.

Heard December 10, 2013.

Dated this 19<sup>th</sup> day of December, 2013, at the City of Edmonton, Alberta.

  
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Larry Loven, Presiding Officer

**Appearances:**

Tom Janzen  
for the Complainant

Allison Cossey  
Steve Lutes  
for the Respondent

*This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.*